Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: 10/09/12	Bureau/Station/Facility: Temple Station	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 011-03674-0590-055	Date: 03/26/11	Time: 0155 hours
City or Station: Temple Station	Nature of Incident: Deputy Alvarez was off-duty, in his personal vehicle and with a friend in the Del Taco drive- thru at the indicated address. Four suspects in a vehicle behind him yelled threats and profanities at him and his passenger. Two of the suspects exited their vehicle, continued their verbal threats and advanced towards Deputy Alvarez. Deputy Alvarez identified himself as a peace officer and ordered the suspects to stop. They did not comply. Fearing the subjects were armed, Deputy Alvarez shot Suspect Lewis twice and Suspect Beierschmitt once. The other two subjects were detained without incident.	
Location: 230 S. Rosemead Boulevard (Unincorporated) Pasadena		

Location Type (*circle one or more*): Backyard, Beach, **Business** (circled), Freeway, Industrial, Park, **Parking Lot** (circled), Residence, Rural, School, Street. Other: ______

Lighting (*circle only one*): Darkness, Daylight, **Other** (circled), **Street Lights** (circled)

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance: approx. 5- 7 feet

Incident Type (*circle one or more*): Accidental, Armed Person, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, **Struggle Involved** (circled), Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot. Other: Assault on Off -Duty Deputy

Initiated by (*circle only one*): Arrest Warrant, Call, Observation, One Person Unit, **Other** (circled), Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, **Other** (circled), Routine Patrol

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect	Aero Unit?	Canine Unit?
3	None	☐	☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
	N/A			EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	City	Zip Code	Work Ph.	Home Ph.
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*)
				On Duty, Present during shooting, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Velasquez	Hector	

PSTD Use Only
SH # 2285143

SH-R-438A rev. 3/07

See Reverse

Officer Involved Shooting

URN: 011-03674-0590-055

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
03/26/12	0513 hours	10/10/12	

Employee #	Last Name	First Name	M.I
[redacted]	Bracken	Sonja	M.
[redacted]	Bly	David	L.
[redacted]	[redacted]	[redacted]	[redacted]

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	PH					NN	
E#1	S#1	FH	BR	9	Y	Y	GS	CH
S#2	E#1	FH					NN	
E#1	S#2	FH	BR	9	Y	Y	GS	AD

Officer Involved Shooting
Involved Employee Information

URN: 011-03674-0590-055

Involved Employee

E 1

Employee # [redacted]	Last Name: Alvarez	First Name: Robert	M.I.
Sex: M Race: H	Rank: Deputy Sheriff	Unit Assignment: Off- duty	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime (Off Duty)	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #; Interviewed? ☒
Hrs of sleep prior to shooting: 6-7 hours	Duty Time (hrs): [redacted] hours	Clothing (*circle only one*): (Plain Clothes no Vest) / Plain Clothes w/ Vest / Raid Jacket no Vest / Raid Jacket w/ Vest / Uniform no Vest / Uniform w/ Vest	Other Factors:
Age: 42 Height: 507 Weight: 195			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted]; Number of Prior Shootings: [redacted]; Directed Force: [redacted]
Weapons Fired Brand: Beretta	Caliber: 9mm # Shots: 3	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #; Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Plain Clothes w/ Vest / Raid Jacket no Vest / Raid Jacket w/ Vest / Uniform no Vest / Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐; Number of Prior Shootings:; Directed Force: ☐
Weapons Fired Brand:	Caliber: # Shots:	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #; Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest / Plain Clothes w/ Vest / Raid Jacket no Vest / Raid Jacket w/ Vest / Uniform no Vest / Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐; Number of Prior Shootings:; Directed Force: ☐
Weapons Fired Brand:	Caliber: # Shots:	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting
Suspect Information

URN: 011-03674-0590-055

Suspect Information

S 1

Last Name: Lewis		First Name: Mark	M.I.: A.
AKA Last Name:		First Name:	M.I.:
Sex: M Race: W	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: N/A	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 29 D.O.B. 10/02/83	Height: 505 Weight: 145	FBI #: [redacted]	CII #: [redacted]
Booking #: 2686583	Primary Charge: 245 (a)(2)PC	Secondary Charge: 422PC	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☒	Substance Used:
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? ☒
Vehicle Make: Acura		Model: Legend	Year: 1994

S 2

Last Name: Beierschmitt		First Name: Aaron	M.I.: M
AKA Last Name:		First Name:	M.I.:
Sex: M Race: W	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: N/A	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 26 D.O.B. 04/15/86	Height: 600 Weight: 180	FBI #: [redacted]	CII #: [redacted]
Booking #: 2686582	Primary Charge: 245 (a)(2)PC	Secondary Charge: 422PC	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☒	Substance Used:
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? ☒
Vehicle Make: Acura		Model: Legend	Year: 1994

S __

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S __

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

DEPUTY INVOLVED HIT SHOOTING (OFF-DUTY)

UNIT: Temple Station
DATE: March 26, 2011, Saturday
TIME: 0155 hours
LOCATION: 230 S. Rosemead Blvd, Pasadena 91107
URN#: 911-03674-0590-055
IAB#: SH2285143

On March 26, 2011, at approximately 0155 hours, Deputy Alvarez was off-duty, driving his personal vehicle north on Rosemead Boulevard. He heard the driver of a vehicle behind him honk the horn and yell, "Bitch, get out of the way!" Deputy Alvarez turned into the driveway of the Del Taco restaurant at the location and pulled into the drive-thru entrance. At this time, Deputy Alvarez's front passenger, Witness [redacted], alerted him that the same vehicle was now stopped behind them.

Deputy Alvarez saw the driver of the vehicle, Suspect Lewis, exit the vehicle and approach him. Suspect Lewis started threatening Deputy Alvarez, yelling, "I'm gonna fuck you up, Bitch!" Deputy Alvarez, fearing for his safety, armed himself with his duty weapon, slightly opened his driver's door and attempted to call "911" via his cell phone. Suspect Lewis said, "I don't give a fuck who you are, I'm gonna fuck you up." Deputy Alvarez heard and saw the front passenger of the suspect vehicle, Suspect Beierschmitt, exit the car. Deputy Alvarez heard Suspect Beierschmitt and the other occupants of the car all urging Suspect Lewis to "fuck him up." Suspect Lewis began advancing toward Deputy Alvarez as he (Deputy Alvarez) was still seated in his vehicle. Deputy Alvarez quickly exited his car, with his duty weapon pointed at the suspects and identified himself as a deputy sheriff.

Deputy Alvarez saw that Suspect Lewis had his right hand underneath a long t-shirt. Suspect Lewis continued the verbal threats toward Deputy Alvarez, lunged toward him, and struck Deputy Alvarez in his left shoulder. Deputy Alvarez leaned his body back to avoid the assault, and fearing for his safety, fired two rounds at Suspect Lewis. Suspect Lewis fell to the ground.

Suspect Beierschmitt, who was behind Suspect Lewis, continued to advance towards Deputy Alvarez despite orders to stop. Deputy Alvarez said Suspect Beierschmitt had both hands down near his waist area. Deputy Alvarez ordered him to show his hands and get down on the ground. Suspect Beierschmitt did not comply and Deputy Alvarez, still fearing for his safety, fired one round at the Suspect Beierschmitt, who then fell to the ground.

Deputy Alvarez used his cell phone to call 911. California Highway Patrol officers arrived on the scene and detained the two additional occupants of the car, Witnesses [redacted] and [redacted].

According to Deputy Alvarez, Suspect Lewis exited the suspect's vehicle less than one minute of him (Deputy Alvarez) stopping at the drive-thru menu board. Suspect Beierschmitt exited the suspect's vehicle less than one minute after Suspect Lewis. Deputy Alvarez estimated the total time of the incident was between two to six minutes **(refer to Deputy Alvarez' transcribed IAB interview, page 29).**

Suspect Lewis sustained two gunshot wounds to the chest. He was transported to Huntington Memorial Hospital where he was listed in critical condition.

Suspect Beierschmitt sustained a single gunshot wound to the abdomen. He was transported to Huntington Memorial Hospital where he was listed in critical condition.

Deputy Alvarez fired a total three rounds of Department issued 9mm ammunition from a Department issued Beretta, Model 92F, 9mm semiautomatic pistol. Three expended 9mm shell casings were recovered at the scene.

No weapons were recovered from the suspects.

Suspect Beierschmitt [redacted]. Suspect Lewis [redacted]

Witnesses [redacted] and [redacted] were not injured, and they admitted that the four of them had been out drinking all night.

Deputy Alvarez had just left work and investigators determined that he had not been drinking.

Deputy Alvarez' duty weapon was transported to the Sheriff's Crime Laboratory for testing.

> **<u>IAB Note:</u> IAB Lieutenant [redacted] checked to see that on-duty Watch Commander, Sergeant Hector Velasquez, took reasonable steps to ensure that the involved personnel did not discuss the incident with uninvolved persons prior to being interviewed by the assigned investigators, and that the involved personnel was only allowed to consult with his attorney or representative.**
>
> **In addition, IAB Lt. [redacted] checked to see if Sergeant Velasquez attempted to have involved personnel in the company of a supervisor until he had provided a statement to the assigned investigators.**

IAB Note: The summary of this incident is based on physical evidence collected and photographs taken at the scene by Los Angeles County Sheriff's Department Crime Lab personnel, IAB investor's observations, as well as information obtained from the original crime report and supplemental reports, along with interviews of the involved employee and witnesses (Refer to IAB Exhibits A and B).

INVOLVED PERSONNEL

ALVAREZ, Robert Deputy Sheriff, #[redacted]
Field Operations Region I
Temple Station

Work History

Date of Employment: 07/14/2005
Date Assigned to Patrol: [redacted]
Date Completed Patrol Training: [redacted]
Prior Shooting Incidents: [redacted]
Prior Founded Force Incidents: [redacted]

SUSPECTS

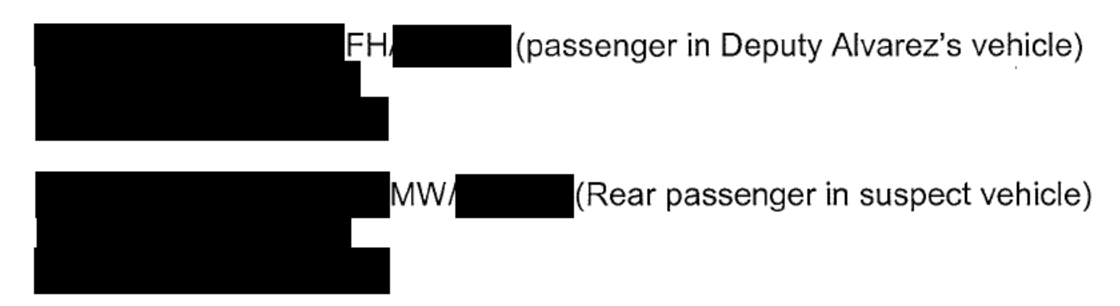
LEWIS, Mark MW/100283
[redacted]

BEIERSCHMITT, Aaron MW/041586
[redacted]

SWORN WITNESSES

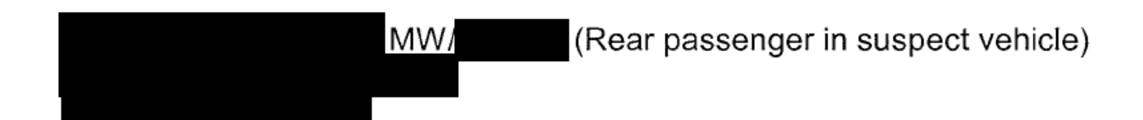
None

CIVILIAN WITNESSES



[redacted] FH/[redacted] (passenger in Deputy Alvarez's vehicle)
[redacted]

[redacted] MW/[redacted] (Rear passenger in suspect vehicle)
[redacted]



[redacted] MW/[redacted] (Rear passenger in suspect vehicle)
[redacted]

SUSPECT INJURIES

Suspect Lewis sustained two gunshot wounds to the chest.

Suspect Beierschmitt sustained a single gunshot wound to the abdomen.

> **IAB Note: For both suspects In-custody medical reports, refer to IAB Exhibit C.**

DEPUTY INJURIES

None

PHYSICAL EVIDENCE

Physical evidence related to the crime scene, collection of evidence, and crime scene diagrams **(Refer to IAB Exhibit A, Homicide Book, pages 47 thru 59)**.

INVESTIGATOR'S OBSERVATIONS

Responding Internal Affairs Bureau investigators walked through the crime scene and noted that the scene consisted of the drive thru and parking lot area of the Del Taco restaurant at 230 S. Rosemead Blvd. The parking lot was illuminated by posted lights throughout the lot, the menu board's lighting, and street lights. There was nothing remarkable beyond what was reported and documented during the investigation. **(Refer to IAB Exhibit B for pictures of the crime scene).**

WEAPONS USED BY DEPUTY PERSONNEL

Deputy Alvarez fired three rounds of Department authorized 9mm ammunition from the Department issued Beretta, Model 92FS, semi-automatic pistol, serial number BER[redacted]. The weapon and ammunition were found to be within specifications consistent with the Beretta 9MM weapon **(Refer to IAB Exhibit A, Homicide Book, pages 81 & 82 for firearm description)**.

WEAPONS USED BY SUSPECTS

None

PROPERTY DAMAGE

None

CRIMINAL INVESTIGATOR/CHARGES FILED

On March 31, 2011, one count of 245 (c)PC and one count of 422 PC were filed in Alhambra Court against Suspect Lewis and Suspect Beierschmitt by Homicide Detective Traci Gonzales. Both suspects have a pending pre-trial hearing of October 17, 2012 and jury trial set for November 5, 2012. **(Refer to IAB Exhibit A, Homicide Book, pages 86 thru 91).**

> **IAB Note: There was not enough evidence to pursue charges against the rear passengers of the suspect's vehicle, [redacted] and [redacted]. Refer to IAB Exhibit A, Homicide Book, page 92.**

LIGHTING AND WEATHER CONDITIONS

The incident occurred during night time hours. The shooting scene was illuminated by three high intensity, amber colored, lights. There was also three high intensity street lights on the utility poles on Rosemead Boulevard illuminating the area. Light from the head lights of the Acura illuminated Deputy Alvarez' Mustang. The Mustang was also illuminated by the drive-thru menu board. The weather was fair, crisp and clear, with no precipitation.

> **IAB Note: For photographs of lights illuminating shooting scene, refer to IAB Exhibit B.**

INVOLVED EMPLOYEE STATEMENTS

The following narratives are intended only as a synopsis of the interviews. Additional information and precise wording may be obtained by reviewing the recorded interviews and transcriptions.

On March 26, 2011, at approximately 0835 hours, Sheriff's Homicide Detectives Linda Muse and Traci Gonzales interviewed Deputy Robert Alvarez. Also present during the interview was Attorney Audra Call from Green and Shinee. The interview took place at the Temple Sheriff's Station and was digitally recorded for review. The following is a summary of that interview:

Deputy Alvarez said he had just completed PM shift for March 25, 2011, at approximately 0120 hours the morning of March 26, 2011. After leaving Temple Station, he drove to his friend's (Witness [redacted]) home to pick her up so they could get something to eat. They drove to a Taco Bell restaurant near Mission Road and Rosemead Boulevard in Rosemead which turned out to be closed. They proceeded northbound on Rosemead Boulevard from Mission Boulevard to a Del Taco restaurant which was open.

Deputy Alvarez said there were very few cars on the road that evening. He said as they approached the driveway to enter the Del Taco, he heard a car honk behind them. He looked in his rear view mirror and saw a dark colored vehicle (suspect's vehicle). He said the vehicle almost collided with the rear of his own vehicle.

Deputy Alvarez said heard loud music coming from the vehicle and he saw two males Hispanics inside. He heard the occupants of the vehicle yelling profanities and making various statements at him as if they were irate. Deputy Alvarez said he turned into the driveway of the Del Taco, thinking that the vehicle would continue northbound on Rosemead Boulevard. As he stopped his vehicle at the ordering speaker (menu board) of the Del Taco, he saw the dark vehicle behind him in the drive thru. He said his driver's side window was down and he heard the occupants still yelling profanities at him. The driver (later identified as Suspect Lewis) exited the suspect's vehicle and began approaching Deputy Alvarez' vehicle. He said Suspect Lewis was wearing a long shirt, and continuously placed both of his hands underneath his shirt. Suspect Lewis yelled "What the fuck you looking at bitch?" several times. Deputy Alvarez said he became concerned and scared for his safety.

Deputy Alvarez said he heard a door open on the suspect's vehicle. Witness [redacted] then told him that another person had exited the suspect's vehicle. He said he could not see the second suspect (later identified as the front passenger-Suspect Beierschmitt) who had exited the vehicle. He was more focused on Suspect Lewis who was to the rear, left of his own vehicle and could only see Suspect Beierschmitt's shadow to the right of his vehicle.

Fearing for his safety, Deputy Alvarez retrieved his firearm and cell phone from just beneath his legs, on his driver's side floorboard. He placed his firearm on his lap and began to dial 911 on his cell phone. He instructed Witness [redacted] not to exit his vehicle. He spoke into his cell phone and thought he requested assistance at that time. As he was on his cell phone he heard both suspects say, "We're going to fuck you up." The suspects referred to him being on his cell phone, basically saying they did not care who he called. Deputy Alvarez said he did not want to drive away for fear of being shot at.

Deputy Alvarez said he then heard Suspect Beierschmitt's voice, now on the left side of his vehicle, say, "Let's fuck him up. Let's go now." Both suspects were initially yelling at him from the rear of his vehicle. Suddenly both suspects began to approach him on his driver's side in a rapid manner. Deputy Alvarez yelled out of his window, identifying himself as an off-duty Los Angeles Sheriff's Department (LASD) Deputy Sheriff and instructed the suspects to get away from his vehicle. The suspects did not comply and continued to yell profanities and threatening to "fuck him up."

At this point, Deputy Alvarez heard other voices yelling, "fuck him up" and saw two other occupants inside the suspect's vehicle. He then dropped his cell phone, un-holstered his firearm, took it off safety and again identified himself as an off duty Deputy Sheriff. Both suspects continued to yell threatening profanities and they advanced to Deputy Alvarez' driver's side door.

Deputy Alvarez said he had slightly opened his driver's door. He said he could not see either suspects' hands. Suspect Lewis kept reaching for his waistband and Suspect Beierschmitt was staggered behind the driver (Suspect Lewis). He believed Suspect Lewis pushed open his driver's door after saying, "Whatcha' gonna do. We're going to fuck you up bitch. Let's get him now." He said as the door opened, he exited his vehicle put his left hand up and pointed his weapon (in his right hand) at the suspects. He ordered the suspects to get back and again identified himself as an off duty LASD Deputy. He said Suspect Lewis said, "Fuck you," and using his right hand, struck Deputy Alvarez on his left shoulder. Deputy Alvarez said he fired two rounds, striking Suspect Lewis in his mid-section. Suspect Lewis fell to the ground.

Deputy Alvarez said Suspect Beierschmitt continued to advance toward him with his hands at his pockets, he could not see his hands. He fired his weapon at Suspect Beierschmitt, and he fell to the ground. Deputy Alvarez said the remaining two occupants ([redacted] rear passenger side, [redacted] rear driver's side) in the suspect's vehicle continued yelling profanities. He ordered those occupants to remain in the vehicle with their hands up. He then said he saw only one occupant still in the vehicle, so he was unsure of the other remaining occupants location. He said due to him not seeing the remaining occupant, he feared that he or Witness [redacted] were going to be shot. While holding the suspects at gunpoint, he located his cell phone in his own vehicle and noticed that when he initially dialed "911" he accidentally dialed "91177". His original call for assistance did not go through. He then cleared his phone, dialed "911" and assisting California Highway Patrol units as well as deputies arrived to assist.

On June 18, 2012, at approximately 1017 hours, Deputy Alvarez was interviewed by Internal Affairs Bureau Sergeants Sonja Bracken and Brenda Parker. Deputy Alvarez was accompanied by his representative Audra Call from Green and Shinee. The interview took place at Internal Affairs Bureau and was digitally recorded. The following is a summary of that interview:

Deputy Alvarez essentially told the same version of events that he told Homicide investigators. Deputy Alvarez added more specifics during the IAB interview. Deputy Alvarez recalled seeing a vehicle in front of him, at the window of the Del Taco, paying for and picking up their order. He could not recall the details of that vehicle. Deputy Alvarez recalled from his prior visits to that Del Taco, there was an approximately six to ten inch raised median that ran along the east side (passenger side) of the drive-thru. He knew that his vehicle was lowered and would not clear that median if he attempted to drive away. Deputy Alvarez also feared that if he attempted to drive away, out of the drive-thru, he and Witness [redacted] would be shot by the suspects from behind.

Deputy Alvarez said initially as Suspect Lewis exited his vehicle, he was yelling profanities at him from the grassy area, west of the menu board, but still near the suspect's vehicle. Deputy Alvarez said within a minute he heard the passenger side door open and that is when Suspect Beierschmitt exited the suspect vehicle.

Deputy Alvarez said he could see Suspect Beierschmitt in his peripheral standing at the rear passenger quarter panel of his (Deputy Alvarez') vehicle. Deputy Alvarez said both suspects then came together at the rear, driver side of his vehicle, still yelling profanities towards him.

Deputy Alvarez said he did not think about having Witness [redacted] call "911" because he wanted to be sure he informed the dispatcher the pertinent information. He said Witness [redacted] was scared and he was not sure if she would be capable of giving the proper information to the dispatcher.

Deputy Alvarez said he had no idea why the suspects followed him into the drive-thru on that night. He said there was no exchange of words between him and the suspects until he identified himself as a deputy sheriff and began giving them orders. Deputy Alvarez said he initially identified himself without displaying his weapon in hopes that the suspects would back off. When the suspects continued their profanities and did not appear that they would comply, he then pulled his weapon and identified himself again.

Deputy Alvarez said as the two suspects approached his door, he did not want to stay seated in his vehicle, he wanted to face them and possibly get into a position of advantage. He said he instructed Witness [redacted] to stay in the vehicle because he did not want to go into "rescue mode" if she exited the vehicle and was injured by one of the other suspect. Deputy Alvarez exited his vehicle and pointed his weapon (in his right hand) at Suspect Lewis. Deputy Alvarez said Suspect Lewis reached for his weapon with his left hand but missed because he (Deputy Alvarez) rocked his body backwards. Deputy Alvarez said Suspect Lewis hit him in his left shoulder with his left hand. Deputy Alvarez said at that point, he was in between the door jamb of his own vehicle so he could not easily re-position himself to avoid the situation. Deputy Alvarez said he could not see Suspect Lewis' right hand because it appeared to be under his shirt tail which was extending down past the waistband of his pants.

Deputy Alvarez said he was thinking that Suspect Lewis was so close to him and that he (Suspect Lewis) was going to kill him. Deputy Alvarez said he also thought about the possibility of Suspect Beierschmitt and the remaining two occupants of the suspect's vehicle being armed. Deputy Alvarez said based on the facts that he identified himself as a deputy sheriff and the suspects continued to advance toward him, he felt he was in a life threatening situation. Deputy Alvarez said he did not feel he had any other option but to fire his weapon at the suspects.

Deputy Alvarez said the shooting of both Suspect Lewis and Suspect Beierschmitt occurred simultaneously. He said when Suspect Lewis lunged at him, it appeared that Suspect Beierschmitt was coming from directly behind Suspect Lewis. Deputy Alvarez said Suspect Beierschmitt was in his backdrop when he fired his weapon at Suspect Lewis.

Deputy Alvarez said he could see the silhouette of Suspect Beierschmitt advancing towards him after he fired at Suspect Lewis. Deputy Alvarez said he was aware that he struck Suspect Lewis when Suspect Lewis buckled over and backed away from him. Deputy Alvarez said he recalled that Suspect Beierschmitt's hands were not up in the air, he could not see his left hand but saw his right hand down by his side when he shot him. Deputy Alvarez said he felt that he was in a life threatening situation each time he shot his weapon. Deputy Alvarez said when he shot Suspect Beierschmitt his backdrop was the street; he did not see any vehicles or pedestrians.

Deputy Alvarez said his initial reaction after he shot Suspects Lewis and Beierschmitt was that he shot Suspect Lewis before he could pull a weapon. Deputy Alvarez said he was aware that there were three other individuals and he was not sure if they had weapons either on their person or in their vehicle. He was thinking that if he shot the initial suspects that the other occupants in the suspect's vehicle would shoot him.

Deputy Alvarez said he did not use his sights when he fired the three rounds. He shot the suspects primarily from his rib cage/hip area. He said his shots were intentional and not accidental discharges. Deputy Alvarez said that while he was in the drive-thru, he recalled that the menu board was lit up and that it was not completely dark. He said he did not have a light or laser attached to his duty weapon.

Deputy Alvarez estimated the time that the whole incident occurred was less than five to six minutes.

On September 25, 2012, Sergeant Bracken conducted a follow up interview with Deputy Alvarez via a telephone conference call which included Attorney Audra Call. This interview was conducted to clarify some points or statements that arose during Homicide's second interview with Witness [redacted].

Deputy Alvarez said that he and Witness [redacted] are still friends and have spoken with each other since this incident at Del Taco in March of 2011. Deputy Alvarez said that within seconds of pulling up to the menu board at Del Taco the first suspect (Suspect Lewis) exited the suspect vehicle.

> <u>IAB Note:</u> **During her second Homicide interview, Witness [redacted] said that approximately five to ten minutes had elapsed from the time they drove up to the menu board until the suspects exited their vehicle (page 8 & 9 of Witness [redacted] 2nd interview transcription).**

Deputy Alvarez said there was no verbal exchange between himself and the suspects right at his (Deputy Alvarez') vehicle door/window, prior to him (Deputy Alvarez) exiting his vehicle.

> <u>IAB Note:</u> **Witness [redacted] said the suspects were directly next to Deputy Alvarez' vehicle window verbally exchanging with Deputy Alvarez (page 16).**

Deputy Alvarez said he was wearing his seatbelt at the time of this incident but could not recall at what point his seatbelt was unbuckled. He was not sure if Witness [redacted] had unbuckled his seatbelt or if he did it himself.

> **<u>IAB Note:</u> Witness [redacted] said she unbuckled Deputy Alvarez' seatbelt to allow him to exit his vehicle (page 17).**

Deputy Alvarez said the first time he identified himself as a Deputy, one of the suspects said, "Fuck you. I don't give a fuck." Deputy Alvarez denied that either of the suspects said, "No, you're fucking not."

> **<u>IAB Note:</u> Witness [redacted] said one of the suspects said, "No, you're fucking not" (page 20).**

Deputy Alvarez said he thought he dialed "911" while still inside his vehicle and then left his cell phone on his vehicle seat as he exited. He said after the shooting occurred he had to reach back inside his vehicle to get his cell phone and call "911."

> **<u>IAB Note:</u> Witness [redacted] said Deputy Alvarez never came back into his vehicle and that he had his cell phone with him as he was outside of his vehicle (page 23).**

Deputy Alvarez said when he exited his vehicle to face the suspects, he had his body bladed, with his left hand extended out forward, and his right foot slightly back. He said his weapon was in his right hand down near his rib cage area. He was not sure if Witness [redacted] could see the position of his weapon as he pointed it at the suspects.

> **<u>IAB Note:</u> During Witness [redacted] first Homicide interview, she said she turned her head, looking forward as Deputy Alvarez exited his vehicle with his weapon; she only heard the gun shots (page 14 of 1st Homicide interview). During her second interview, she said she saw the position of Deputy Alvarez' weapon as he pointed it at the suspects (page 36 of 2nd interview transcription).**

> **<u>IAB Note:</u> For further details, refer to Deputy Alvarez' transcribed Homicide and IAB interviews.**

<u>SWORN WITNESS STATEMENTS</u>

None

<u>CIVILIAN WITNESS STATEMENTS</u>

On March 26, 2011, at approximately 0610 hours, Sheriff's Homicide Detectives Linda Muse and Traci Gonzales interviewed [redacted]. Also present during the interview were Deputy District Attorney Jason Lustig, Senior Investigator [redacted] and Internal Affairs Bureau Sergeant Sonja Bracken.

The interview took place at the Temple Sheriff's Station and was digitally recorded for review. The following is a summary of that interview.

Witness [redacted] said that on March 26, 2011, at approximately 0130 hours her friend Deputy Alvarez picked her up from her residence. She said he had just gotten off of work and they were going to get something to eat. She said Deputy Alvarez picked her up in his personal vehicle, a grey Ford Mustang. She said as they were driving north on Rosemead Boulevard, she looked in the passenger side mirror and noticed a dark colored vehicle begin to tailgate them. She heard loud music and loud voices coming from the dark vehicle. She saw four occupants in the vehicle.

Witness [redacted] said the dark vehicle was tailgating so close that if Deputy Alvarez would have suddenly stopped his vehicle, the dark vehicle would have collided with them. She said Deputy Alvarez pulled into the drive thru of the Del Taco and the dark vehicle also turned in behind them. Deputy Alvarez told her not to worry and that the occupants in the vehicle probably just wanted to order food. She said as Deputy Alvarez rolled down his window to began ordering, she heard the occupants of the dark vehicle yelling and laughing from inside their vehicle. She also heard one of the occupants yell, "Oh come on hurry up and order. Fuck you, hurry up!"

Witness [redacted] then saw the driver and front passenger's door of the dark vehicle open and two males exited. She said she began to fear for her own safety, as well as Deputy Alvarez' safety. She saw Deputy Alvarez retrieve his cell phone and firearm from the driver's side floorboard. He placed his firearm on his lap. She said the two males appeared to become angry that Deputy Alvarez was on his cell phone and believed he was calling for backup. She saw the two males approach Deputy Alvarez' side of his vehicle.

Witness [redacted] said as the two males approached, Deputy Alvarez exited his vehicle and stood by the driver's side door. She said Deputy Alvarez identified himself as an off-duty Sheriff's Deputy several times and displayed his firearm. She said the driver (Suspect Lewis) said, "No man, fuck that, fuck that" and both he and the passenger (Suspect Beierschmitt) continued to advance on Deputy Alvarez. She said Suspect Lewis was in front of Suspect Beierschmitt as they approached. She saw Suspect Lewis get within arms length of Deputy Alvarez and lunge towards him with both hands. She then heard gunshots come from Deputy Alvarez' firearm.

Witness [redacted] said she saw Suspect Lewis fall to the ground. She then looked straight ahead and was not aware if anyone else had been shot. After the shooting, she heard Deputy Alvarez yelling commands to all the occupants of the dark vehicle. She saw one male (Witness [redacted]) sticking his hands out of the window of dark vehicle and yelling, "I am in the Air Force, I don't have anything, I don't have anything." Deputy Alvarez called for assistance on his cell phone and continued to give commands to the occupants of the vehicle. A short time later, California Highway Patrol Officers arrived to assist. Witness [redacted] interview was concluded.

<u>IAB Note:</u> For further details, refer to Witness [redacted] transcribed Homicide interview.

Sometime after the shooting incident, Witness [redacted] was re-interviewed by District Attorney Investigator [redacted] along with Homicide Detective Traci Gonzales and two defense attorneys for Suspects Lewis and Beierschmitt. Witness [redacted] version of the story was essentially the same as she stated in the first interview but she added some different details. Witness [redacted] said that there was an exchange of conversation between Deputy Alvarez and the suspects, as the suspects where actually at Deputy Alvarez' vehicle window. She said that she unbuckled Deputy Alvarez' seatbelt for him, to allow him to get out of the vehicle. She did not mention that Deputy Alvarez talked into his cell phone, as if to call for help, prior to exiting his vehicle. Witness [redacted] said she saw Deputy Alvarez' weapon pointing at the suspects, as he was standing outside of his vehicle. When questioned further about seeing his weapon, Witness [redacted] said she could not see his weapon from where she was sitting.

Witness [redacted] also said that when Deputy Alvarez identified himself, the suspects replied by saying, "No you're fucking not." She denied that the suspects verbally threatened Deputy Alvarez. Witness [redacted] said that Deputy Alvarez had his cell phone in his hand during the shooting and he had not returned to his vehicle to retrieve it. Witness [redacted] said the suspects got out of their vehicle approximately five minutes after they (both Deputy Alvarez' and suspect's vehicle) arrived in the drive-thru. She then said from the time the suspects exited their vehicle, until the actual shooting occurred was approximately ten more minutes. She said the whole incident took approximately ten to fifteen minutes.

<u>IAB Note:</u> For further details, refer to Witness [redacted] second transcribed interview.

<u>IAB Note:</u> Two employees, [redacted] and [redacted] & three patrons [redacted], [redacted], and [redacted], were inside the Del Taco. They were all interviewed by Homicide Investigators. They heard gunshots and a male giving orders saying, "let me see your hands" but did not see the actual incident. Refer to IAB Exhibit A, Homicide Book, pages 35 thru 38.

<u>IAB Note:</u> Additionally, there were three occupants of a white Chevy Silverado pickup truck that was at the drive-thru window at the time of the incident. Homicide Investigators interviewed the rear passenger of the truck, [redacted]. He did not see the incident, he heard the gunshots and then saw two males running away from a man with a gun. He called "911" and a short time later saw CHP officers arrive. He and the two other occupants of the truck left the scene prior to being interviewed on that evening. For further details refer to Homicide Investigators supplemental reports and transcribed interviews in IAB Exhibit A, Homicide Book, pages 45 & 46.

<u>IAB Note:</u> Due to the time of night and location of the incident there were no other witnesses located.

SUSPECTS STATEMENTS

IAB Note: All suspects were taken into custody at the scene but were not interviewed by Internal Affairs.

IAB Note: Homicide Detectives interviewed Witness [redacted] and Witness [redacted]. [redacted] said he could not recall anything and requested an attorney. [redacted] said he was asleep in Suspect Lewis' vehicle and only awoke when he heard three to four gunshots. He then saw Suspect Beierschmitt holding his stomach area and a man who appeared to him as law enforcement holding a gun and giving commands. He claimed he could not recall hearing anyone arguing or if Suspects Lewis and Beierschmitt exited the vehicle prior to the gunshots. See IAB Exhibit A, Homicide Book, pages 43 thru 45 for supplementary reports on suspect interviews written by Detectives Gonzales and Muse.